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10/596,220	06/05/2006	Andrew J. Stanford-Clark	GB920030099US1	3726
32329	7590	02/20/2008	EXAMINER	
IBM CORPORATION			KHANNA, MADHU	
INTELLECTUAL PROPERTY LAW			ART UNIT	
11400 BURNET ROAD			PAPER NUMBER	
AUSTIN, TX 78758			2151	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/596,220

Applicant(s)

STANDFORD-CLARK ET AL.

Examiner

MADHU KHANNA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 06/05/2006.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Specification*

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claim 13 recites "A computer program product" and "a computer readable medium". This claim language is not anticipated by the specification.

### *Claim Rejections - 35 USC § 101*

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 11 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In this case, computer-related inventions whether descriptive or functionally descriptive material are non-statutory categories when claimed as descriptive material *per se* (see *Warmerdam*, 33 F.3d at 1360 USPQ2d at 1759), falling under the "process" category (i.e. inventions that consist of a series of steps or acts to be performed). See 35 U.S.C. 100(b) ("The term process means, art, or method, and includes a new of a known process, machine, manufacture, composition of matter or material"). Functional descriptive material: "data structures" representing descriptive material *per se* or

computer program representing computer listing *per se* (i.e. software *per se*) when embodied in a computer-readable media are still not statutory because they are not capable of causing functional change in the computer. However, a claimed computer-readable *storage* medium encoded with a data structure, computer listing or computer program, having defined structural and functional interrelationships between the data structure, computer listing or computer program and the computer software and hardware component, which permit the data structure's, listing or program's functionality to be realized, is statutory (see MPEP §2106).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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3. Claims 1-4 and 11-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Droms (US Patent # 7,318,101).

Regarding claim 1, a method for network communication controlled by a network server over a network using a connection-oriented protocol with a network client, wherein the network server has a first server configuration and the network client has a client configuration, the method comprising the steps of:

detecting the network client (host computer) configuration (tracks an identity of the host computer and a corresponding network service that the host computer is assigned to access the network, column 9 lines 2-5);

replacing said first server configuration with a second server configuration (configuration server modifies map 162 to produce an updated mapping, column 13 lines 27-28);

responsive to a determination that the client (host computer) configuration is incompatible with the second server configuration, disconnecting the network client (host computer) (configuration server transmits command 194 to deny network access to host computer, column 14 lines 63-67).

Regarding claim 2, wherein the connection-oriented protocol (e.g. TCP/IP) is provided over a network connection using a connectionless protocol (e.g. DHCP) (column 9 lines 34-41).

Regarding claim 3, wherein the determination that the client (host computer) configuration is incompatible with the second server configuration (after the configuration server updates the map) is determined by the network server (column 14 lines 56-67).

Regarding claim 4, wherein the detecting step further comprises the step of receiving a message at the network server (configuration server), wherein the message includes the client configuration (column 14 lines 35-44).

Regarding claim 11, a network server for communicating with a network client over a network comprising:

- a client (host computer) configuration detector for detecting a configuration of the network client (host computer) (the web server detecting the selection generates a signal to a configuration server, column 8 lines 66-67 - column 9 lines 1-5);

- a server configurator for changing the configuration of the network server (configuration server 160 updates map 162, column 11 lines 35);

- a comparator for determining if the configuration (e.g. network service #2) of the network client (host computer) is compatible with the configuration of the network server (address assigned by the configuration server to enable host computer to access network via network service #1) (column 11 lines 4-13; column 11 lines 27-34); and

- a server communications component for connecting with the network client (host computer) using a connection-oriented protocol (TCP/IP) (column 9 lines 34-41),

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wherein the server communications component is operable to disconnect the network client (host computer) responsive to said comparator (configuration server 160 transmits a command 194 to network device 115 to at least temporarily terminate or disable link 120-1 to deny host computer 110-1 access to network 150, column 11 lines 39-42).

Regarding claim 12, this network server claim comprises limitation(s) substantially the same as those discussed on claim 2 above, same rationale of rejection is applicable.

Regarding claim 13, this computer program product claim comprises limitation(s) substantially the same as those discussed above on claim 1, same rationale of rejection is applicable.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. Claims 5, and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Droms in view of Deshpande (US Patent # 7,047,308).

Regarding claim 5, although Droms teaches a client and server configuration, Droms does not explicitly disclose the configurations to include data compression parameters.

Deshpande teaches wherein the client configuration, the first server configuration and the second server configuration include data compression parameters (Deshpande: encoding, column 7 lines 19-22).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize compression in the system/method of Droms, as suggested by Deshpande, in order to reduce the consumption of resources and transmission bandwidth. One of ordinary skill in the art of networking would recognize that streaming media data from a server to a client/host computer has become a popular reason to access a network and involves significant bandwidth requirements. One would be motivated to combine these teachings because in doing so the configuration server could assign the most appropriate IP address to the host computer by determining a



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media server with the ideal bitrate for the host computers buffering and decompression capabilities, which would reduce the amount of switching of IP addresses, and thereby improve the quality and efficiency of the media streaming.

Regarding claim 8, wherein the client configuration, the first server configuration and the second server configuration include data communication speed parameters (Deshpande: e.g. bitrate, column 3 line 66-67—column 4 lines 1-3).

Regarding claim 9, wherein the client configuration, the first server configuration and the second server configuration include media encoding parameters (Deshpande: media encoding, column 7 lines 19-22).

5. Claims 6-7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Droms in view of Whelan et al. (Pub. No.: US 2004/0203593) (referred to as Whelan hereafter).

Regarding claim 6, although Droms teaches a client and server configuration, Droms does not explicitly disclose the configurations to include data encryption parameters.

Whelan teaches wherein the client configuration, the first server configuration and the second server configuration include data encryption parameters (Whelan: [0026]).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize encryption in the system/method of Droms, as suggested by Whelan, in order to secure data transferred over the network. One of ordinary skill in the art of networking would recognize that accessing networks and retrieving personal information using an IP address has become apparent in mobile devices (e.g. PDA, laptop, etc.). One would be motivated to combine these teachings because encryption would help ensure the protection of information so that only the intended recipient can access it, regardless of the network service/access point which is used.

Regarding claim 7, wherein the client configuration, the first server configuration and the second server configuration include signal strength parameters (Whelan: transmit signal strength, [0030]).

Regarding claim 10, wherein the client configuration, the first server configuration and the second server configuration include business application parameters (Whelan: e.g. software applications, [0027]).

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MADHU KHANNA whose telephone number is (571)270-3629. The examiner can normally be reached on Monday-Thursday 8:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beatriz Prieto can be reached on 571-272-3902. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. K./  
Examiner, Art Unit 2151

ABDULLAH SALAD  
PRIMARY EXAMINER